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11 \*Attorney for Petitioner Boivae Fleming

12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 Boivae Fleming,

15 Petitioner

16 v.

17 Warden Hutchison, *et al.*,

18 Respondents

Case No. 2:20-cv-01983-CDS-EJY

**Order Granting Unopposed  
Motion for Extension of Time to  
File Opposition to Motion to  
Dismiss**

**(First Request)**

**[ECF No. 35]**

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21 Petitioner Boivae Fleming, by and through counsel, Laura Barrera, Assistant  
22 Federal Public Defender, moves this Court for an extension of time of 30 days from  
23 December 27, 2022, to and including January 26, 2023, to file the opposition to  
24 Respondents' motion to dismiss.  
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## POINTS AND AUTHORITIES

Mr. Fleming mailed his §2254 petition to this Court on October 23, 2020.<sup>1</sup> The Federal Public Defender was appointed to represent Mr. Fleming on May 14, 2021.<sup>2</sup> Mr. Fleming filed his counseled amended petition on June 27, 2022.<sup>3</sup> Respondents filed a motion to dismiss on December 9, 2022.<sup>4</sup> Petitioner's opposition to the motion to dismiss is currently due December 27, 2022. Petitioner now respectfully requests an extension of time to file his opposition.

The additional period of time is necessary in order to effectively represent Mr. Fleming. This motion is filed in the interests of justice and not for the purposes of unnecessary delay.

Undersigned counsel respectfully requests additional time to prepare the Opposition. Counsel has been involved in active investigations with numerous cases and has upcoming travel to visit clients in various parts of Nevada including Indian Springs, and Lovelock. Undersigned counsel is currently working on pleadings and investigations in other cases, including expert consultations and amended petitions in *Lopez v. Garrett*, 2:20-cv-01496-RFB-VCF and *Mullner v. Williams*, 2:20-cv-00535-JAD-BNW. Undersigned counsel is also conducting record review and drafting amended petitions in two recently assigned cases involving substantial jury trials in *Langford v. Baker*, 3:19-cv-00594-MMD-CSD and *Durr v. Warden*, 2:22-cv-00732-JAD-NJK. In addition, undersigned counsel recently filed an opposition to a motion to dismiss in *Riggs v. Filson*, 3:21-cv-00071-ART-CSD; appeared in the

<sup>1</sup> ECF No. 1-1.

<sup>2</sup> ECF No. 9.

<sup>3</sup> ECF No. 22.

<sup>4</sup> ECF No. 32.

1 Eighth Judicial District Court in *White v. Johnson*, A-22-859004-W; and has been  
2 working on a reply in *Orduna v. Garrett*, 3:20-cv-00641-MMD-CLB.

3 On December 27, 2022, Deputy Attorney General Heather Proctor was  
4 contacted via email and stated that Respondents do not object to the extension, but  
5 the lack of objection should not be construed as a waiver of any procedural defenses.

6 For the above stated reasons, Petitioner respectfully requests this Court  
7 grant an extension of time of 30 days and order the opposition to the motion to  
8 dismiss to be filed on or before January 26, 2023.

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10 Dated December 27, 2022.

11 Respectfully submitted,

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13 Rene L. Valladares  
14 Federal Public Defender

15 /s/ Laura Barrera

16 Laura Barrera  
17 Assistant Federal Public Defender

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20 IT IS SO ORDERED:

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23 UNITED STATES DISTRICT JUDGE

24 DATED: December 27, 2022